

REMARKS

This Amendment, filed in reply to the Office Action dated October 18, 2005, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

As a preliminary matter, the Examiner objects to claim 10 as being a duplicate of claim 9. A proposed correction of claim dependency is set forth above.

Claims 1-12 and 14-21 remain pending in the application. Claims 1-6 and 14-18 have been rejected under the judicially-created doctrine of obviousness-type double patenting over claim 13 of U.S.P. 6,597,456 (Kubo) in view of Natsuume (previously of record). Claims 1-3 have been rejected under 35 U.S.C. § 103 as being anticipated by Naya. Claims 4-6 have been rejected under 35 U.S.C. § 103 as being unpatentable over Naya in view of Natsuume. Claims 1-12 and 15-18 have been rejected under 35 U.S.C. § 103 as being unpatentable over Malmqvist (U.S.P. 5,492,840) in view of Natsuume. Claims 19-21 have been deemed allowable over the art of record but have been objected to for depending on rejected base claims. Applicant respectfully submits the following arguments in traversal of the prior art rejections.

With regard to the obviousness-type double patenting over Kubo and Natsuume, Applicant submits that Natsuume does not teach a synthetic resin having the properties of the s-polarization as described by claim 1. The Examiner's rejection (over Naya) suggests that the recitation regarding the optical properties of the dielectric block's s-polarization properties is not being considered on the merits. This is improper.

The Examiner characterizes the features of the dielectric block as functional language or intended use. Neither principle applies here where the percentage of s-polarization is attributable

to optical properties of the synthetic resin used to form the dielectric block. The Examiner suggests that the clause “when said light is p-polarized...” comprises a field of use, such that when other types of light are used, the s-polarization is immaterial. Nevertheless, the claim recitation clearly states that a particular s-polarization result occurs with p-polarized light. None of the art of record teaches such polarization characteristics of the dielectric block as claimed, regardless of what happens with other forms of light. Relatedly, one skilled in the art would understand that p-polarization will be incident to the dielectric block in surface plasmon cases because such polarization results in the surface plasmon resonance effects. Therefore, the Examiner’s failure to consider the s-polarization characteristics is improper for at least this reason.

The Examiner’s contention that the s-polarization feature comprises functional language is also incorrect. The polarization feature relates to an optical property of the dielectric block. These can be influenced by the type of material and thickness (see disclosure at page 14, sole full paragraph and page 16, last 6 lines, for example). Therefore, such recitation must be considered as a characteristic of the dielectric block. It is not inherent that any dielectric material would have this effect. Rather, Applicant determined the efficacy of the s-polarization condition to obtain satisfactory SNR during SPR analysis. Therefore, the mere teaching of ZEONEX in Natsuume is not pertinent since the minute thicknesses mentioned in the disk-forming materials in Natsuume differ in kind from that used in SPR.

Therefore, claim 1 is not obvious over Kubo claim 13 and Natsuume.

With regard to the Examiner’s further Section 102 rejection of claim 1 over Naya, the above rationale also applies. Applicant submits that the Examiner’s failure to show the s-

polarization characteristics in the prior art renders the rejection improper. Therefore claim 1 is patentable over Naya for at least the reasons set forth above. Claims 2-6 are patentable based on their dependency. Natsuume does not make for the deficiencies. Even though Natsuume teaches ZEONEX, its field of use relates to a geometric configuration that would not necessarily result in the s-polarization features as described by claim 1. Even if one were to assume that some s-polarization suppression would occur in synthetic resin materials, there is no basis to conclude that the s-polarization would achieve the levels as claimed. Claims 2-3 describe even a more restrictive aspect of s-polarization that are not inherent in the art of record.

With regard to the prior art rejection over Malmqvist and Natsuume, this combination includes the basic deficiencies as set forth above regarding the lack of the s-polarizaton characteristics as claimed. Therefore, claims 1-12 and 15-18 are patentable over this cited combination.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.111
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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